

## **SECTION VI**

### ***PERFORMANCE STANDARDS***

#### **A. ACCESSORY DWELLING**

1. **General Application.** Intended for caretaker or watchman on premises of commercial or industrial use.
  - a. Principal use must be a lawful conforming use.
  - b. For a single individual without a family, a buffet apartment within or attached to the principal building may be allowed providing the apartment is at least 450 square feet in size. For an individual with a family an apartment within or attached to a principal building may be allowed providing there is 750 square feet in the apartment. A single family dwelling which complies to the minimum requirement of the R-1 District may be allowed. Setbacks of the relevant district shall apply.
  - c. The use of a mobile home as an accessory dwelling may be allowed by a special use permit only after demonstration that such a mobile home is essential for the operation of a principal lawful use and conditions exist which preclude construction of an accessory building allowed by right.
  - d. Only one accessory building or dwelling shall be allowed in conjunction with a principal lawful use.
  - e. Proof of adequate provisions for water, sewer, other utilities, and access shall be provided.
  - f. No such accessory dwelling shall be deeded, sold, leased, or rented without conforming to the subdivision and zoning regulations.

#### **B. ANIMALS AND HOUSEHOLD PETS**

1. **General Application.** Pets such as dogs, cats, rabbits and other small domesticated animals shall be considered as an accessory use for any residential, mobile home or commercial zoned district. Provided that, except for Rural Estate (RE) zone districts or if permitted on property zoned Planned Unit Development (PUD), it shall be a violation of this ordinance for any person to keep or maintain pets such as dogs, cats, rabbits or other small domesticated animals which exceed a total of four in number or which exceed more than two per species.

However, in addition to the maximum number of animals authorized pursuant to this Section, a person is allowed to keep and maintain offspring of such authorized animals for a period not to exceed three months after birth of such offspring.

2. **Livestock.** Except for land zoned Rural Estate (RE) or permitted on property zoned Planned Unit Development (PUD), it is unlawful for any person to keep or maintain in the City, any livestock.
3. **Wild and Non-Domesticated Animals.** It is unlawful for any person to keep or maintain in the City any animals generally considered wild and undomesticated as a species.
4. **Exceptions.** The prohibitions contained in this Paragraph B do not apply to tropical fish, small rodent animals (gerbils, hamsters, and such similar animals), and small birds kept as pets, provided that such fish, animals, and birds are kept within a dwelling or accessory building and are housed and kept in a manner which is not offensive or hazardous to the health, safety, or welfare of surrounding property owners.
5. **Location.** Except as is permitted on property zoned Planned Unit Development (PUD) no animal pens, stables, rooms, or enclosures shall be nearer than one hundred (100 ') feet to any off property residents and all plans for pens, stables, rooms, enclosures, and waste disposal facilities shall receive written approval of Tri-County District Health Department prior to construction thereof.
6. **Horses.** Horses for use of occupants or owners of property may be kept as an accessory use and not otherwise in Rural Estate (RE) zone districts in the City or as otherwise permitted on property zoned Planned Unit Development (PUD) provided that in Rural Estate (RE) zoned districts at least one acre of pasture is available for each horse and provided further that adequate measures are undertaken to prevent such accessory use from being a nuisance to surrounding property owners.

#### **C. GUARD DOGS**

Guard dogs patrolling for the protection of property shall be allowed in all industrial, commercial, flood plain control, mineral extraction, and public land zone districts subject to the following: the property or the area patrolled shall be fenced with a minimum 72-inch chain link fence, with security arms and barbed wire turned in or a 96-inch high chain link fence, the name of the handler and owner with phone numbers shall be on record and current with the Brighton Police Department, and the property shall be properly signed, giving adequate information of the guard dogs presence, during what hours, and the name and phone number of an individual who can be contacted at all times.

#### **D. HOME OCCUPATIONS**

##### **1. PURPOSE AND INTENT.**

**Purpose.** The purpose of this section is to permit certain small scale home business and occupations to be operated within a residential dwelling provided that a home business or occupation shall not change the residential character of the home or neighborhood, and shall

be compatible with existing residential uses without creating conflict with the neighboring residential uses.

**Intent.** It is the intent of this section to permit only those home occupations that do not adversely affect the residential character and quality of the neighborhood and the premises on which the home occupation is located. It is the further intent of this section to limit the types of business that will be allowed as home occupations, because locating certain businesses within residential neighborhoods can have adverse effects upon the residential character and quality of the neighborhoods in which they are located.

## **2. ADMINISTRATION AND PROCEDURES.**

### **A. Application Procedure.**

1) Any person wishing to establish and operate a home business or occupation within the City must obtain a home occupancy permit. The person desiring to obtain a home occupation permit shall make an application for same to the Community Development Department. The application shall be made on such forms as required by the Director. Included with the application shall be:

- a) A non-refundable application fee in the amount set forth in the City Council's Annual Fee Resolution; and
- b) Written approval of the owner of the residence if different than the applicant; and
- c) Approval of the Tri-County Health Department, if applicable; and
- d) The State license for a family child care facility, if applicable; and
- e) The federal firearm license, if applicable; and
- f) Any license, permit or approval required by city, state, federal law for the operation of the home occupation; and
- g) Such other information and documentation which may be required by the Director.

**B. Review Procedure.** The Director, or designee, shall have ten (10) business days from the date of application to review and formulate written findings of whether the home occupation permit should be granted, granted with conditions or denied.

- 1) If the Director, or designee, finds that the proposed home occupancy is not prohibited and will comply with the intent and standards contained in this Section D, Home Occupations, the application shall be approved and the home occupation permit issued to the applicant.
- 2) The Director, or designee, may approve the application with specific conditions in order to ensure that the home occupation will comply with the intent and standards of this Section D. Home Occupations, including compatibility with the residential character of property, building, complex and the neighborhood and to

protect adjacent residential properties, units, the building and complex from any potential adverse effects of the proposed home occupation and thereafter issue the home occupation permit with conditions to the applicant.

- 3) If the Director, or designee, determines that a proposed home occupation is prohibited or will not comply with the intent and standards contained in this Section D, Home Occupations, the Director, or designee, shall deny the application.
- 4) The Director, or designee, in the Director or designee's sole discretion, may deny the application, but notify the applicant of changes necessary to achieve compliance with the intent and standards of this Section D. Home Occupations. Once issued, the permit shall apply only to the applicant, occupations and premises stated in the application. The permit is nontransferable and nonassignable and shall remain in full force and effect unless revoked pursuant to subsection 2.D. below. The permit shall be deemed automatically revoked when the applicant no longer resides in or occupies the premises, or ceases engaging in the home occupation at the approved premises for sixty (60) consecutive days or longer.

C. **Approval Period and Annual Renewals.** A home occupation permit shall be issued for one (1) year, commencing on the date of issuance of the permit and terminating one (1) year thereafter. The permit and any conditions imposed shall be subject to annual review and approval. Unless renewed as provided herein, a home occupation permit shall be valid for one (1) year and does not grant the right to operate the home occupation in subsequent years. The holder of the Permit may apply for renewal on or before the termination of the permit and applications and review for renewal shall comply with the requirements for home occupations that are in effect at the time of the renewal application.

D. **Violation - Nuisance.** It is unlawful for any person to operate a home occupation that does not conform to the provisions of this Section D. Home Occupations. It shall also be unlawful for any person to operate a home occupation that does not conform to the conditions of approval of the home occupation permit. In addition to all other sanctions and remedies, a home occupation being conducted without a home occupation permit or in violation of any condition of approval or provision of this Section D. Home Occupations shall be deemed a nuisance and may, as an alternative, be abated pursuant to Article 8-24, *Nuisances* of the Brighton Municipal Code, as amended.

E. **Revocation.** The Director, or designee, may revoke a home occupation permit based upon a finding that any one of the following conditions exist:

- 1) The home occupation has changed either in nature or extent to the point that it differs substantially from the use requested in the approved application for the home occupation permit.

- 2) The occupation or the manner of operation of the occupation fails to comply with the intent and standards set forth in this Section D. Home Occupations.
- 3) The permit or approval was issued, in whole or in part, on the basis of a misrepresentation by the applicant or on an incomplete, incorrect, insufficient application as required by this section.
- 4) One or more of the conditions of the permit or approval have not been substantially fulfilled or have been violated.
- 5) The manner of operation is incompatible with the residential nature of the property on which the home occupation is operated and/or the surrounding residential uses.
- 6) The home occupation, or the manner of operation thereof, constitutes a nuisance as provided in Article 8-24, *Nuisances* of the BMC, as amended.
- 7) The holder of the home occupation permit failed to allow inspections at a reasonable time for the purpose of investigating a complaint or to verify compliance of the home occupation with any required conditions.
- 8) The holder of the home occupation permit failed to comply with any applicable city, county, state, or federal ordinance, law, or regulations including failure to obtain and/or renew the home occupation permit and/or business license.
- 9) The home occupation is in violation of any applicable city, county, state, or federal ordinance, law, or regulations.

The Director shall notify the holder of the home occupation permit in writing to the holder's last known address of such revocation, the effective date of the revocation and the reasons there for.

F. **Appeal of Director's decision.** Any applicant, owner or occupant of adjacent residential property or holder of the home occupation permit may appeal a decision of the Director or designee regarding the granting, granting with conditions, denial or revocation of a home occupancy permit to the Board of Adjustment, as provided in subsection H. Appeals of Section II. Administration, Procedures and Enforcement, as amended. Upon the filing of an appeal, the permit shall be suspended or revoked as ordered by the Director pending conclusion of the appeal process. The Board of Adjustment shall review the application, approval, approval with conditions, denial or revocation for compliance with the provisions of this Section D. Home Occupations and the compatibility of the proposed home occupation with the character of the residential property and surrounding residential uses and neighborhood. The Board of Adjustment may either approve, approve with modifications or additional conditions, or deny the application. As to a revocation, the Board of Adjustment may sustain or overrule the revocation or return the matter to the Director for further consideration.

G. **Business License Required.** The holder of a home occupation permit shall obtain and keep a current business license for the home occupation in addition to the home occupation permit granted by the Director. Such business license will not be issued unless and until a home occupation permit is issued.

3. **Limitations on Home Occupations.** The following limitations are intended to minimize the impact of home occupations upon the surrounding residential neighborhood:

A. **General Standards:**

- 1) Home occupations shall be clearly incidental and accessory to the principal use of the residence as a dwelling and shall not change the character of the dwelling or the neighborhood.
- 2) More than one home occupation may be located within a single dwelling provided the level of activity associated with all of the home occupations, when considered together, does not violate any provisions of this Section D. Home Occupations.
- 3) The home occupation use of the dwelling shall not utilize more than twenty-five percent (25%) of the total gross floor area, of the principal dwelling and accessory building being used for the home occupation, except as may be required of a state licensed family child care home.
- 4) Up to ten (10) customer or patron visits per day shall be permitted between the hours of 7:00 a.m. and 7:00 p.m. There shall be no restriction on the number of customers or patrons visiting at any given time, so long as the total number of visits per day does not exceed ten.

B. **Restrictions on Home Occupations.**

- 1) No home occupation shall be conducted in a rental unit, without a written statement from the landlord granting permission.
- 2) The home occupation shall not employ, for a fee or otherwise, any person in the conduct of the home occupation in the dwelling, who does not reside in the dwelling.
- 3) To ensure that dwellings for which home occupation permits have been issued remain compatible with surrounding residential use, the following regulations shall apply:
  - a) The home occupation shall be primarily conducted within the principal dwelling, except as may be required for a state licensed family child care home.
  - b) Exterior storage, display or work done in conjunction with the home occupation is prohibited.
  - c) The minimum number of required off-street parking spaces for the principal dwelling unit in the applicable Zone District shall be maintained at all times during the home occupation's hours of operation. At all times during the day or night parking related to the home occupation shall be confined to the street frontage of the lot in question, the driveway, and the garage/carport.

- d) The home occupation shall not necessitate or require a separate entrance, by means of structural changes, from outside of the building.
  - e) The home occupation shall not require any other alteration to the dwelling or building not customarily associated with a residential use. Nor shall the home occupation require the construction of a new accessory building or structure.
  - f) There shall be no deliveries to or from the premises with a vehicle longer than sixteen feet or rated over eight thousand gross vehicle weight (a standard United Parcel Service truck). Moving vans shall be permitted for the purpose of delivering or removing household or office furnishings.
  - g) The operator of the home occupation use shall not display or create outside the building any external evidence of the operation of the home occupation except one unanimated, non-illuminated flat sign to be displayed in the window of the dwelling and having an area not more than one (1) square foot.
  - h) Only one (1) vehicle may be designated and used in connection with the home occupation. In no event shall a vehicle exceeding seven thousand pounds empty weight used in connection with the home occupation be parked either on public or private property in the residential district.
- 4) An occupation, activity, or use which requires a special use permit pursuant to subsection H. of Section II, Administration and Enforcement is not a permitted home occupation under this section.
  - 5) The operation of any wholesale or retail business is prohibited unless it is conducted entirely by mail (U.S. Postal Service, United Parcel Service, and the like), or sales are transacted on the premises no more than once per calendar week (e.g., Tupperware party). Incidental sales of products shall be permitted (e.g., instructional books sold in conjunction with music lessons).
  - 6) No chemicals or substances which are physical or health hazards as defined in the fire code as adopted by the City shall be used, sold or stored in conjunction with a home occupation.
  - 7) The home occupation shall not result in an increase in the life safety hazard rating of the site or buildings on the site as defined in the, fire, residential, security or building codes as adopted by the City.
  - 8) Any home occupation involving the preparation, sale or handling of food shall be required to obtain approval from the Tri-County Health Department prior to commencing business. Proof of health department approval must be furnished to the city at the time a business occupancy permit is applied for.

- 9) No home occupation shall produce on a regular or repeated basis quantities or types of refuse not customarily associated with a normal residential use in that Zone District.
- 10) No home occupation shall be operated within any dwelling unit which also contains a use approved by a Special Use Permit
- 11) The following activities, equipment and materials are prohibited as part of any home occupation:
  - a) Use of heavy equipment or machinery that is not customarily incidental to domestic use (e.g., cement mixers, tractors, paint booths).
  - b) Equipment, machinery, or processes that create heat, glare, humidity, smoke, noise, odor, gas, dust, fumes, particles, radiation or vibration discernable by a person of reasonable senses at the property line.
  - c) Activities, equipment or materials on more than an intermittent basis so as to change the fire safety or occupancy classification of the premises (e.g., welding).
  - d) Activities, equipment or materials that cause electromagnetic (e.g., radio, television, telecommunications, etc.) interference to surrounding properties.
  - e) Use or storage of hazardous chemicals or processes (combustible or explosive) that are not customarily associated with domestic use.

#### **4. Specific Home Occupations.**

##### **A. Garage sales:**

- 1) Garage sales at a single family dwelling shall not exceed four (4) per calendar year. Each garage sale may not last more than three (3) days.
- 2) Garage sales at a multi-unit residential building or complex shall be sponsored or coordinated by the management or owners' association thereof. No more than two (2) garage sales may be held per calendar year and each garage sale may not exceed three (3) days. It shall be unlawful for a resident multi-unit residential building or complex to conduct a garage sale which is not in conjunction with one of the residential complex's sponsored sales.
- 3) One conducting a garage sale may sell merchandise displayed for sale during the garage sale and items for sale shall belong to the person conducting the garage sale, or in the case of a multi-unit residential building or complex, to the tenants thereof.
- 4) One conducting a garage sale shall ensure that access to all adjacent properties and residential units in a multi-unit residential building is maintained free and clear of any obstruction generated by such garage sale.

- B. **Family Child Care Home.** Only State licensed family child care shall be permitted as a home occupation. See Section III. Definitions for clarification on Family Child Care Home.
- C. **Firearms Sales.** In addition to submitting a copy of the applicant's federal firearms license and other information required for application for a home occupation permit, the applicant shall provide a verified statement as to the following:
  - 1) No firearms, ammunition, or accessories shall be sold or offered for sale on the premises; and
  - 2) The exchange of firearms shall only be conducted at gun shows, pursuant to all applicable firearms laws and regulations; and
  - 3) No firearms, ammunition, parts or supplies related to the home occupation shall be kept on the premises, provided that nothing herein shall be deemed to prohibit firearms, ammunition, parts and supplies kept for the private use of the holder of the home occupation permit; and
  - 4) No repair, service or gunsmithing shall be conducted on the premises.

In the event that Federal or State law prohibits the exchange of firearms merchandise outside of the dwelling in which the home occupation is conducted, any home occupation permit for firearms sales shall become void.

D. **Miscellaneous.**

- 1) Lessons in the fine arts (dance, music, art), or educational tutoring are permitted home occupations.
- 2) Fine arts and crafts studios, tailors, and seamstresses producing for-sale works and products are permitted home occupations providing only the works and products of the holder of the home occupation permit may be sold from the premises.

5. **Prohibited Uses.** The following uses, as examples and not by way of limitation, shall not be allowed as a home occupation:

- A. Animal and pet related services, including a veterinarian establishment, grooming, kennel, or daycare
- B. Bed and breakfast or boarding or rooming house
- C. Clinics, hospitals, or senior living facilities
- D. Cosmetology services (i.e., barber or beauty parlor)
- E. Repair services related to automobiles, motorcycles, large household appliances, or other large-scale machinery
- F. Restaurants

- G. Dispatching of more than one vehicle as allowed in section B. 8 above, to and from the residential premises (i.e., towing services, repair services, taxi services, and the like)
- H. Those uses which the Director determines are similar in nature to the uses listed above.

#### **E. PROHIBITING OFFENSIVE EMISSIONS**

- 1. **Electro-Magnetic, Electrical Interferences.** No equipment shall be operated in such a manner as to adversely affect the operation of any off premises electrical, radio, or television equipment.
- 2. **Humidity, Heat, Glare, Smoke, Noise, Odor, Gas, Dust, Fumes, Particles or Radiation.** Every use shall be so operated that it does not emit any offensive, harmful, hazardous, or annoying amount of heat, glare, humidity, smoke, noise, odor, gas, dust, fumes, particles or radiation at any point on any boundary line of the lot on which the use is located.
- 3. **Lighting.** Lighting facilities shall be arranged and positioned so that no direct light or reflection creates a nuisance or hazard on any adjacent property or right-of-way.
- 4. **Vibration.** Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on any boundary line of the lot on which the use is located.

#### **F. TEMPORARY SALES STANDS**

The sale of any product from a temporary stand, motor vehicle, or trailer is prohibited except by special or temporary use permit.

#### **G. GROUP HOMES**

- 1. **Purpose And General Application.** It is the intent of the City of Brighton to encourage an even geographic distribution of group homes within the residential areas of the City. The purpose of this Section is to help maintain the non-institutional nature of these facilities while retaining the primary residential nature of the neighborhoods.
- 2. **Location.** As referenced in *Section 31-23-303 (2)(b), C.R.S.*, and to encourage the integration of group homes throughout residential areas and to help maintain the non-institutional nature of these facilities and the residential character of the neighborhoods, no group home shall be located less than 750 feet from another existing approved group home, regardless of the zoning district, except that such separation requirements may be waived by the City when such group homes are separated by a restricted access highway, a

community level park, or some other physical barrier such as a river, or railroad right-of-way.

3. **Applicable Codes.** Nothing in this ordinance shall be construed as to exempt group homes from compliance with any state, county, or local health, safety, fire, or building codes. Every group home, whether existing, approved, or proposed, must comply with applicable building, health, safety, and fire codes. (*See City of Brighton Municipal Code Chapter 5.90.*)

## **H. MANUFACTURED HOMES**

**General Application.** A manufactured home shall be regarded as a dwelling unit, and it shall be subject to the same restrictions, setbacks, use, and zoning performance standards as any other dwelling unit of similar density and use. Using engineering calculations or tests, following commonly accepted engineering practices, all components and subsystems of manufactured homes must perform to meet health, safety, and functional requirements to the same extent as required for other dwelling units of similar density and use by the applicable building and fire codes adopted by the City of Brighton.

1. The installation of manufactured homes shall also be subject to any zoning, development, use, aesthetic, landscaping, or historical standards enacted for the district in which the homes are to be installed. This includes, but is not limited to, requirements regarding permanent foundations, minimum floor space, unit size, or sectional provisions, building envelopes, side yard, and setback standards to the extent that such standards or requirements are applicable to new or existing housing within the specific use district.
2. All manufactured homes shall be subject to the minimum allowable standards established by the City of Brighton as follows:
  - a. Minimum Size — not less than twenty-four feet (24') in width and 900 square feet of floor space on the main level above grade.
  - b. Must be installed on an engineered permanent foundation with drawings engineered and stamped by a Colorado State licensed engineer.
  - c. Must have brick, wood or cosmetically equivalent exterior siding that is compatible with the surrounding neighborhood. Pictures, samples and/or detailed description of intended exterior siding must accompany building permit application.
  - d. Evidence must be supplied to the City of Brighton with the building permit application that the manufacturer has met or exceeds all minimum UBC, UPC, UMC and NEC standards for residential construction as per the currently adopted municipal codes.
  - e. All manufactured homes shall have a gable roof with a minimum pitch of four inches (4") of vertical rise for every twelve inches (12") of horizontal run. These gabled roofs must be engineered and built to withstand a snow load of thirty (30) pounds per square foot and the entire home must be able to withstand wind shears

of eighty-five miles per hour (85 MPH).

- f. Nothing in this Subsection "H" shall preclude the City from enacting additional zoning or building code provisions for unique public health, safety, or welfare requirements concerning manufactured homes.

## **I. CREMATORIUMS**

**General Application.** A crematorium, whether it is a principal use or an accessory use to a principal use (e.g., funeral home, parlor with cremation services) shall be allowed as a use-by-right, conditional use, or not allowed in the zone districts as set forth in the Table of Uses (Article 17-32). When reviewing an application for a crematorium, the following factors shall be considered:

1. The crematorium shall comply with Section VII. Performance Standards, E. Prohibiting Offensive Emissions, with the exception that reasonable heat radiation from the discharge device (smokestack) is permitted.
2. To the maximum extent possible, the discharge device (smokestack) shall be screened from view, using architecturally integrated screening units, roof parapets or sloped roof forms that appear as integral elements in the overall building design.
3. All activity relating to the deceased shall be handled discretely and screened from public view to the maximum extent possible, including delivery, handling, removal, transfer and storage of the remains. The method of screening may include any of the following: fencing, walls and/or landscaping consistent with that used elsewhere within the development, as determined at the time of approval.
4. The crematorium shall not be used for the disposal of any waste materials, including medical or industrial.
5. Pet crematoriums shall be limited to the preparation and cremation of pets.
6. A licensed funeral home or parlor operating an approved crematorium may perform cremation services for other licensed funeral homes or parlors.
7. The crematorium shall secure and keep current all necessary approvals, permits, and certifications from applicable state and federal agencies.
8. In zone districts in which a "crematorium" is classified as a Conditional Use, the City Council shall consider the criteria as set forth in Section 17-8-60 B. for a Conditional Use.